IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 2897 of 2004

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

==========

KANUBHAI BHAKTIDAS RANA - Appellant(s)
Versus
MANOJBHAI RAIJIBHAI PATEL & 2 - Defendant(s)

==========

Appearance :
MR DN PANDYA for Appellant(s) : 1,
RULE SERVED for Defendant(s) : 1 - 2.
MR ADIL R MIRZA for Defendant(s) : 3,

==========

CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 23/08/2006

ORAL JUDGMENT

1. By way of this appeal, the appellant has challenged the judgement and award dated 30.06.2001 passed by the Motor Accident Claims Tribunal (A), Bharuch in M.A.C.T. No. 668 of 1996 whereby the same was partly allowed.

2. The short facts of the case are that on 27.05.1996 at about 8.00 O'clock the appellant was travelling in a Jeep bearing Registration No. G.J.- 61546 along with other passengers and was coming back from Shridi. When they reached near Mandvi, the driver of the said vehicle lost control over the said Jeep and the jeep turtled

thereby causing injuries to the claimant and other passengers. Therefore the claimant claimed Rs. 1,00,000/- by way of compensation by filing the claim petition. The Tribunal after hearing passed the aforesaid award.

3. Mr. Pandya learned advocate for the appellant has submitted that tribunal has committed an error by not awarding any amount under the head of pain, shock and suffering. He has further contended that the future loss of income has also been wrongly assessed in view of the decision of the Apex Court in the case of ***"U.P. State Road Transport Corporation and Ors. Vs. Trilok Chandra & Ors."*** reported in 1996(3)GLR 136. Learned advocate for the appellant has also tried to seek enhancement under the head of transportation and other special expenses.

4. Mr. Mirza learned advocate for the respondents was not in a position to controvert the contention regarding nil payment under the head of pain, shock and suffering. However, he has supported the order of the tribunal and submitted that no interference is required in the matter.

5. Heard I have gone through the judgement and award of the Tribunal. Looking to the facts and circumstances of the case and perusing the records, it is borne out that the claimant has undergone operation and was

required to be hospitalised for 86 days. In that view of the matter, I am of the opinion that interest of justice would be met by awarding Rs. 7,500/- under the head of pain, shock and suffering.

5.1 However as far as the contention regarding future loss of income is concerned, in view of ***"U.P. State Road Transport Corporation and Ors.*** the income should be doubled and then average is required to be taken which comes to Rs. 5086.5/- which is rounded off to Rs. 5000/-. Looking to the permanent partial disability of 6%, the per month loss comes to Rs.300/- which in turn is Rs. 3,600/- per annum.

5.2 The Tribunal has in the present case applied the multiplier of 8 years which in my opinion is just and proper. Therefore the claimant shall be entitled to Rs. 28,800/- (3600/- * 8) towards future loss of income. Since, the tribunal has already awarded Rs. 19,200/- an additional amount of Rs. 9,600/- is required to be paid to the claimant towards future loss of income.

5.3 Further the view taken by the tribunal regarding 3 months salary is not just and proper. I am of the opinion that the claimant is entitled for additional amount of Rs. 10,173/- under the head of loss of actual

salary. Therefore, in all he will be entitled for an additional sum of Rs. 27,273/- which includes Rs.7500/- under the head of pain shock and suffering, Rs. 9600/- under the future loss of income and Rs. 10,173 under the head of loss of 3 months salary.

6. In the premises aforesaid, the appeal is allowed accordingly. The original claimant shall be entitled to an additional amount of Rs. 27,273/- which is rounded off to ***Rs.27,300/-*** with running interest at the rate of ***6%*** from the date of application till realisation. The award of the Tribunal is modified accordingly. No order as to costs.

[K.S. JHAVERI, J.]

Suresh*